

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:24-CV-00991-KDB**

JOSHUA STEVEN ROGERS,

Plaintiff,

v.

MERCK & CO., INC.,¹

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs (the “Application”) (Doc. No. 2). Upon a careful review of the Application, the Court cannot determine whether or not Plaintiff is eligible for the relief requested. Therefore, the Application will be denied without prejudice.

Federal courts can allow a litigant to prosecute or defend a civil action without paying the usual required fees if the litigant submits an affidavit containing a statement of the litigant’s assets and demonstrating that he cannot afford to pay the required fees. 28 U.S.C. § 1915(a)(1). An impoverished plaintiff does not have to prove that he is “absolutely destitute to enjoy the benefit of the statute.” *Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 339 (1948). The individual seeking to proceed in forma pauperis need only show indigence or poverty sufficient to demonstrate his inability to provide for the necessities of life while paying the costs of litigation. *Id.* at 339-40. If a court determines at any time that the allegation of poverty made in an in forma pauperis application is “untrue,” then the court “shall dismiss the case.” 28 U.S.C. § 1915(e)(2)(A).

¹ Merck & Co., Inc. is the maker of Gardasil, the vaccine at issue in this action.

Here, the Application is incomplete and fails to paint even the faintest picture of Plaintiff's financial status. For example, in questions two and three, Plaintiff failed to fully answer all relevant parts, and in questions four through eight, Plaintiff failed to answer the questions in their entirety. Plaintiff must fully complete the Application for it to be considered by the Court.

Therefore, Plaintiff's Application will be denied without prejudice for Plaintiff to either pay the filing fee or more fully explain his inability to pay the costs of these proceedings.

NOW THEREFORE IT IS ORDERED THAT:

1. Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. No. 2) is **DENIED** without prejudice to pay the filing fee or refile an Application within twenty-one (21) days of this Order; and
2. If Plaintiff fails to comply with this Order, the Complaint will be dismissed without prejudice and this case will be closed without further notice.

SO ORDERED ADJUDGED AND DECREED.

Signed: December 11, 2024



Kenneth D. Bell
United States District Judge

